

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, April 7, 2009  
**Time:** 7:00 PM  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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### ROLL CALL

Mayor Livengood called the meeting to order at 7:00 PM.

**PRESENT:** Mayor Livengood, Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

**ABSENT:** Councilmember Gomez was absent at the Roll Call and arrived at 7:05 PM.

### PLEDGE

Boy Scouts Troop No. 92 presented the colors and led all in the Pledge of Allegiance.

### INVOCATION

Councilmember Giordano introduced Mr. Anh Vo of the Phat Vuong Temple, who provided the invocation.

### MINUTES

Motion: to approve the City Council meeting minutes of March 17, 2009, as amended

Vice Mayor McHugh provided the correct spelling of the last name of the resident who spoke during Public Forum at the March 17 meeting.

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5  
NOES: 0

### SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for April 2009, as submitted

Motion/Second: Councilmember Giordano/Councilmember Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

### PRESENTATION

Mayor Livengood proclaimed the date of Saturday, April 25, 2009 as "Arbor Day." The proclamation was accepted by City Streets employee Mike Clark.

Next, the Mayor proclaimed the month of April as the "Month of the Young Child and Child Abuse Prevention Month." The proclamation was accepted by Youth Advisory Commissioners Jennifer Shen, Dilpreet Khalsa, and Chair Sareen Sandhu. Ms. Sandhu thanked the City Council and provided comments about concerns for the safety of all young children of Milpitas.

### PUBLIC FORUM

**Mr. Nien Su**, a volunteer for local television station on channel 32, introduced a cultural event in San Jose at the Center for Performing Arts on May 14-17. He invited all to attend the traditional Chinese cultural event planned.

### ANNOUNCEMENTS

Councilmember Polanski thanked all Commissioners who attended the Commissioners Recognition brunch held last Saturday morning and thanked staff for their efforts to put on the event enjoyed by all. On Thursday, a joint emergency drill at Burnett Elementary School was planned in conjunction with the Milpitas Unified School District, with many volunteers including Emergency Preparedness Commission members.

**ANNOUNCEMENT OF  
CONFLICT OF INTEREST**

None

**APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted

City Manager Williams requested one change, and the Mayor asked him to bring that forward during the Redevelopment Agency/Council joint meeting agenda approval.

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5  
NOES: 0

**CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk), as submitted

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

- \* 2. Remove Arts Commissioner  
Voted to remove Mr. Richard Tsuei as a voting member on these two bodies, thus creating a vacancy with an expiration date of October 2010.
- \* 3. Relocation of sculpture  
Approved the formation of Project Subcommittees for the relocation of Cartwheel Kids to the Milpitas Library and the new City Hall Art Installation.
- \* 4. New Senior Center Art Installation  
Approved the new Senior Center Art installation project concept and proposed budget not to exceed \$100,000.
- \* 5. Fee Waivers for Festival of Trees fundraiser  
Approved the Milpitas Parks and Recreation Foundation's request for a fee waiver and in-kind donation of equipment and staffing totaling \$500 for the second Annual Festival of Trees Gala Fundraiser event in the Milpitas City Hall Rotunda.
- \* 6. Adopt Ordinance No.196.10  
Waived the second reading and adopted Ordinance No. 196.10 amending Chapter 213 of the Noise Ordinance, to accommodate 6:00 AM start time for pick up of solid waste.
- \* 7. Adopt Ordinance No.38.785  
Waived the second reading and adopted Ordinance No. 38.785 for a Zoning Amendment.
- \* 9. Granting Initial Acceptance of Project No. 7086  
Adopted Resolution No. 7855 granting initial acceptance of the Water System Air Relief Valve Modifications – Phase II, Project No. 7086, subject to the one year warranty period and reduction of the faithful performance bond to \$17,500.
- \* 10. Resolution Authorizing Purchase of Police Equipment  
Adopted Resolution No. 7856 approving the purchase of eighteen Taser International stun guns, sixteen Taser Cam Audio Video Recording Units and two USB Camera Down Load Kits for the not-to-exceed amount of \$22,986.07 from ProForce Law Enforcement.
- \* 11. Consultant Agreement with Carollo Engineers  
Approved consultant services agreement with Carollo Engineers in the amount of \$49,270 for Phase III of the Well Upgrade Program, Project No. 7076.
- \* 12. Agreement with Pacific Gas and Electric  
For the Gibraltar Reservoir and Pump Station, Project No. 7101:
  - 1. Approved an agreement with PG&E for design and construction of upgraded electrical service in the amount of \$59,680.31.
  - 2. Found that the listing of certain specific equipment brands in the project bid documents is appropriate to match existing system components and systems.
  - 3. Authorized advertising the project for bid proposals, with the required specified equipment brands.
- \* 13. Consultant Agreement with Swinerton Management  
Approved consultant services agreement with Swinerton Management & Consulting for project management assistance for various Capital Improvement Projects, for \$265,000.

\* 14. Agreement with HMH Engineers for Consulting

Approved agreement with HMH Engineers for Consulting Services for Dixon Landing Road/I-880 Interchange, Project No. 4047 for an amount not to exceed \$129,500.

## **PUBLIC HEARING**

1. Ordinance No. 38.789 regarding Assembly Uses Not Associated with Business in Industrial Districts

Senior Planner Sheldon Ah Sing introduced the additional streamlining of the zoning ordinance in the City's Municipal Code. This was one additional effort to consolidate and re-format sections to streamline the law, following updates adopted last year.

He displayed one simple table/chart, as an example of simpler understanding of zoning types in various districts of the City. H reported that 14 outreach meetings were held to seek input on these code changes with stakeholders throughout the City. The Planning Commission unanimously recommended approval.

Councilmember Gomez asked how many applications were pending that would be heard prior to the adoption of the ordinance, and staff replied just one. It was scheduled the following evening on the Planning Commission's agenda.

Vice Mayor McHugh asked for additional explanation of the 14 outreach meetings, and how those were advertised. The Senior Planner stated that notices were sent to all tenants and property owners in the area, there were Planning Commission meetings, and all were publicly advertised in the local newspaper and flyers were sent in the US mail.

Mayor Livengood then opened the public hearing, and no speakers came forward.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

City Attorney Ogaz read aloud the title of Ordinance No. 38.789, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code Relating to Clarifying and Re-organizing the Zoning Ordinance and Eliminating Places of Assembly Use Categories from the Industrial Districts that are not Associated with Business or Industrial Uses."

(2) Motion: to waive the first reading beyond the title of Ordinance No. 38.789

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

(3) Motion: to introduce Ordinance No. 38.789

Motion/Second: Councilmember Gomez/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5  
NOES: 0

## **JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

### **RA 1. CALL TO ORDER**

Mayor/Agency Chair Livengood called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:29 PM.

## ROLL CALL

**PRESENT:** Chair/Mayor Livengood, Vice Chair/Vice Mayor McHugh, Agency/Councilmembers Giordano, Gomez and Polanski

**ABSENT:** None

### RA 2. MINUTES

Motion: to approve the meeting minutes of the Redevelopment Agency meeting of March 17, 2009, as submitted

Motion/Second: Agency/Councilmember Polanski / Agency/Councilmember Gomez

Motion carried by a vote of: AYES: 5  
NOES: 0

### RA 3. Agenda Approval and Consent Calendar

Motion: to approve the agenda and consent calendar items (\*), as amended

City Manager Williams asked to remove Item No. RA 5 from the agenda.

Motion/Second: Vice Chair/Vice Mayor McHugh / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

### RA 4. Progress Report on New Senior Center construction

First, Mayor Livengood asked when staff was meeting with the Subcommittee that reviewed this project, and staff replied monthly.

CIP Engineer Steve Erickson provided a general update on the status of the new Senior Center construction, based on efforts to date by the contractor Swenson & Associates, which pulled a permit to start building on April 2.

Councilmember Giordano asked about fencing that was scheduled to go up, and asked if that would inhibit traffic coming into City Hall's parking lot. City Engineer Greg Armendariz responded about the area needed for the contractor's "lay down" area for construction materials and that part of that parking lot would be used. Temporary signs would be displayed if necessary to direct drivers, as Ms. Giordano suggested.

Motion: to accept the oral staff report on the new Senior Center construction project

Motion/Second: Vice Chair/Vice Mayor McHugh / Agency/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

### RA 5. Agreement with Team San Jose for Roller Hockey

This item was removed from the agenda.

### \*RA 6. Joint Resolution Memorializing Loan Policy

Adopted Joint Resolution No. 7852/RA327 of the City Council and the Redevelopment Agency memorializing the interfund advances or loan policy.

### \*RA7. Plans and Specs. for new Library Window Blind Improvements

Approved plans and specifications for the new library window blind improvements and authorized the advertisement for bid proposals for this one element of the Library Project No. 8162.

### \*RA8. Joint Resolution on DBE Agreements

Adopted Joint Resolution No. 7853/RA 328 authorizing the execution of disadvantaged business enterprise (DBE) agreements and related documents for federally funded projects in the City of Milpitas.

### \*RA9. Amendment No. 1 to Agreement with HMH Engineers

Approved and authorized the Agency Executive Director to execute Amendment No. 1 to the agreement with HMH Engineers for the S. Park Victoria Drive Resurfacing Project, Project No. 8194.

- \*RA10. Plans and Specifications and for S. Park Victoria Drive Street Pavement Rehabilitation Approved plans and specifications and authorized the advertisement for bid proposals, pending Caltrans project approval, for the S. Park Victoria Drive Street Pavement Rehabilitation, Project No. 8194.
- \*RA11. Plans and Specifications and Bids for Project No. 8195 Approved the plans and specifications and authorized advertisement for bid proposals for the Carlo Street Off-ramp Conversion, Project No. 8195.
- \*RA12. Amendment No. 5 to Agreement with Consolidated Engineering Laboratories Approved Amendment No. 5 to the agreement with Consolidated Engineering Laboratories (CEL) for an amount not to exceed \$90,000 for special testing and inspection services for the Senior Center, Project No. 8176.

### **RA 13. ADJOURNMENT**

Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:38 PM.

### **COMMITTEE REPORTS**

Two items were approved on consent calendar.

### **NEW BUSINESS**

One action was approved on the consent calendar.

### **ORDINANCES**

Two ordinances were adopted on the consent calendar.

### **RESOLUTIONS**

Two resolutions were adopted on the consent calendar.

### **8. MOU with IAFF**

Human Resources Director Carmen Valdez summed up the terms of the proposed Memorandum of Understanding with the International Association of Firefighters, Local 1699. Posting of a notice of the availability of the document had met the 15-day posting requirement, per the Open Government ordinance. \$1,600,000 was the approximate cost of the Memorandum over three years.

Mayor Livengood asked when the salary increases for firefighters would begin and Ms. Valdez replied on April 12, 2009.

Councilmember Giordano announced she would vote no on this contract. She supported salary raises for firefighters, but was in the middle between what staff wanted and what the union requested as for the percentage of increase.

Councilmember Polanski announced she would also oppose the MOU, due to the current economic times and budget restrictions. She felt the City could not give greater than 2% raises in this budget, with a statewide special election on May 19, and when tax revenue was so reduced in this economy. She appreciated all the efforts of all City employees.

Motion: to adopt Resolution No. 7854 authorizing the Memorandum of Understanding with the International Association of Firefighters, Local 1699 for the period of January 1, 2009 through December 31, 2011

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 3  
NOES: 2 (Giordano, Polanski)

### **BIDS & CONTRACTS**

Four items were approved on the consent calendar.

### **ADJOURNMENT**

Mayor Livengood adjourned the City Council meeting at 7:41 PM.

**The foregoing minutes were approved by the Milpitas City Council as submitted on April 21, 2009.**

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**Mary Lavelle, City Clerk**